

Message Text

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ACTION L-03

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TO SECSTATE WASHDC 2233
INFO AMCONSUL LENINGRAD
AMEMBASSY MOSCOW

UNCLAS USUN NEW YORK 02639

E.O. 11652 N/A
TAGS: PDIP, CGEN, UR
SUBJECT: SOVIET REPLY TO USUN NOTE CONCERNING MALIK AUTO
ACCIDENT

REF: STATE 109659, USUN 2201 AND PREVIOUS

1. WE HAVE RECEIVED OFFICIAL NOTE DATED JUNE 20, 1978 FROM
SMUN IN RESPONSE TO OUR NOTE OF MAY 26, 1978 CONCERNING
QUESTION OF IMMUNITY IN CONNECTION WITH SUIT FILED BY
SOWINSKI AGAINST KERLY, USSR MISSION, AND VASILIY ORLOV.
UNOFFICIAL TRANSLATION OF TEXT OF NOTE IS AS FOLLOWS:

BEGIN TEXT

PERMANENT MISSION OF USSR TO UN PRESENTS ITS COMPLIMENTS TO
USUN AND, REFERRING TO USUN'S NOTE OF MAY 26, 1978, HAS THE
HONOR TO CONFIRM POSITION SET FORTH IN SOVIET DELEGATION'S
NOTE OF MARCH 24, 1978, RELATIVE TO ILLEGALITY OF ANY KIND
OF COURT EXAMINATION OF CLAIM OF A. SOWINSKI AGAINST USSR
MISSION TO UN, INCLUDING DISCUSSION IN COURT OF QUESTION OF
SOVIET DELEGATION'S LEGAL IMMUNITY FROM APPEARING.

USSR MISSION TAKES INTO CONSIDERATION THE CORROBORATION
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CONTAINED IN CITED US MISSION NOTE THAT, IN ACCORDANCE WITH
HEADQUARTERS AGREEMENT BETWEEN UN AND US GOVERNMENT AND
CONVENTION ON UNITED NATIONS PRIVILEGES AND IMMUNITIES, THE
US GOVERNMENT CONSIDERS THAT THE USSR MISSION ENJOYS
IMMUNITY FROM SUIT AND ALSO EXPRESSES ITS THANKS TO THE US
MISSION FOR SENDING A LETTER TO THE NEW YORK STATE SUPREME
COURT CONFIRMING THE IMMUNITY OF V. L. ORLOV FROM THE

COURT'S JURISDICTION.

THE USSR MISSION CONSIDERS IT NECESSARY, HOWEVER, TO RECALL THAT THE PRIVILEGES AND IMMUNITIES OF DELEGATIONS ARE DEFINED BY GENERALLY ACCEPTED NORMS OF INTERNATIONAL LAW, IN PARTICULAR AS CONSOLIDATED IN THE 1961 VIENNA CONVENTION ON DIPLOMATIC RELATIONS, TO WHICH THE USSR AND THE US ARE BOTH PARTIES. CONSEQUENTLY, RESPECT FOR AND MAINTENANCE OF IMMUNITIES WHICH DIPLOMATIC MISSIONS ENJOY ARE AN INTERNATIONAL OBLIGATION OF THE HOST COUNTRY.

INASMUCH AS IN THE PRESENT CASE THE QUESTION IS A MATTER FOR THE AMERICAN SIDE TO FULFILL ITS OBLIGATIONS IN ACCORDANCE WITH INTERNATIONAL LAW, ITS COMPETENT ORGANS MUST TAKE ALL STEPS NECESSARY FOR PUTTING AN END TO THE LEGAL ACTION AGAINST THE USSR MISSION. END TEXT

2. WE HAVE FORWARDED BY POUCH COPY OF SOVIET NOTE TO IO/UNP - LOUIS R. HAGE.

3. DEPT'S INSTRUCTIONS ON RESPONSE TO BE MADE TO SMUN ARE REQUESTED. LEONARD

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NNN

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